

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:06CR56

UNITED STATES OF AMERICA)

)

)

VS.

)

ORDER

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)

RONNIE DEAN PRESNELL)

)

THIS MATTER is before the Court on the Defendant's appeal from the order of detention entered by the Magistrate Judge. Although designated as an appeal, the Defendant actually seeks review of that Order pursuant to 18 U.S.C. § 3145(b).

The Defendant was indicted on June 7, 2006, with three counts of violating 18 U.S.C. § 922(g) and three charges of damaging property belonging to the United States. **Bill of Indictment, filed June 7, 2006.** On August 29, 2006, the Magistrate Judge ordered that he be detained pending trial. **Order of Detention Pending Trial, filed August 29, 2006.**

On September 1, 2006, the Defendant filed a notice of appeal of the order of detention and simultaneously moved for a hearing at which he

might be allowed to present new information to the Magistrate Judge which would show a change of circumstances. No further information is provided.

Title 18 U.S.C. § 3142(f) provides in pertinent part that a detention hearing

may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.

18 U.S.C. § 3142(f). The Defendant has made two mutually exclusive motions. As a result, the Court will deny the appeal without prejudice and refer the motion for review to the Magistrate Judge to whom it has been addressed. **Motion for Detention Hearing, filed September 1, 2006** (“The defendant would like an opportunity to present new information to the *United States Magistrate Judge* to show a change of circumstances which would warrant his release.”).

IT IS, THEREFORE, ORDERED that the Defendant’s appeal is hereby **DENIED** without prejudice and the Defendant’s motion for review of

the detention order which is addressed to the Magistrate Judge is hereby
REFERRED.

Signed: September 7, 2006

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

